

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE ETHICON, INC., PELVIC REPAIR : **CIVIL ACTION NO. 2:12-md-02327**
SYSTEM PRODUCTS LIABILITY :
LITIGATION : **MDL No. 2327**

: :
: **Judge Joseph R. Goodwin**
This Document Applies To All Actions :
: :

x

**DECLARATION UNDER PENALTY OF PERJURY
(PURSUANT TO 28 U.S.C. § 1746) OF BENJAMIN M. WATSON**

Benjamin M. Watson deposes and says as follows:

1. My name is Benjamin M. Watson. I am over 21 years of age and of sound mind.

Based on my review of records and related inquiries of company personnel, I have personal knowledge of and am competent to testify about the matters stated in this declaration. The facts stated herein are true and correct to the best of my knowledge and are stated under penalty of perjury. In my capacity as an attorney for Ethicon, Inc. and Johnson & Johnson, I submit this declaration in support of Defendants' Response in Opposition to Plaintiffs' Motion for a Finding of Spoliation and for Sanctions and to apprise the Court of the development of the Ethicon pelvic mesh litigation.

2. Prior to 2008, records show that there were a handful of cases filed against Ethicon related to Ethicon's pelvic mesh products. The isolated cases below were not part of a consolidated or other mass tort proceeding.

3. Between 2002 and early 2008, records show that there were four cases in which legal holds were issued for specific pelvic mesh products or product lines. These cases were

resolved long before the current wave of mass litigation. As described below, three of the cases included medical malpractice claims, and all of the cases were resolved in a relatively short period.

- (a) *Brenda and Walter E. Holley v. S. Kam Otey, M.D.; Physicians and Surgeons Clinic Corporation of Amory, Mississippi and John Doe Defendants A through D*, Civil Action No. CV02-113-PFM, filed in Mississippi in March 2002, appears to include claims against the treating physician and his clinic. The Ethicon product at issue was Mersilene mesh.
- (b) *Kandell v. Ethicon, Inc.*, Case No. 16-03-07400, filed in Oregon on or about March 6, 2003, involved TVT, but settled on or around January 24, 2004. It is my understanding documents produced in this case were comprised of general source materials. Copies of non-plaintiff specific documents that have been identified from the *Kandell* production have been produced in this case.
- (c) *Keeton v. Gynecare, et al.*, Case No. 05-24931-CA 30, filed in Florida in December 2005, involved TVT. Summary judgment was entered in the *Keeton* case on or about August 13, 2007. It is my understanding documents produced in this case were comprised of general source materials. Copies of non-plaintiff specific documents that have been identified from the *Keeton* production have been produced in this case.
- (d) *Wallingford v. Johnson & Johnson, et al.*, Docket No. RG07312197, filed in California on February 21, 2007. The Ethicon device at issue was TVT

Classic. The *Wallingford* case was voluntarily dismissed on or about August 18, 2008 before Plaintiffs served written discovery on Ethicon.

4. In 2008, approximately five cases were filed against Ethicon in New Jersey state court, beginning with the case *Lombardi v. Gynecare*, Docket No. 000772-11. Again, a legal hold was issued for that case. Again, document production was comprised of general source materials in 2008. Other cases continued to be filed in both federal and state court.

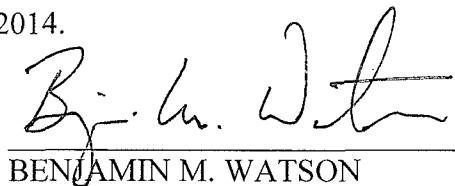
5. Over the next couple of years, this trickle of cases grew to a larger number, with approximately 45 additional cases filed in 2009. In February 2010, plaintiffs' counsel sought centralized management of approximately 60 cases in New Jersey, and that request was granted on October 12, 2010.¹

6. After centralized management of the New Jersey state court actions was ordered, the pelvic mesh litigation began to pick up speed. Between October 14, 2010 and February 6, 2012, records show that there were approximately 400 pelvic mesh cases filed in New Jersey state court. In contrast to the prior trickle of cases, this large number of filings reasonably signaled the creation of a mass tort.

7. From 2010 through 2012, the records show that approximately 54 cases were filed in federal courts around the country with respect to Ethicon's pelvic mesh products. Of those 54 cases, three were filed in 2010, thirty-one were filed in 2011 and twenty were filed in 2012. The JMDL's order created the Ethicon MDL proceeding on or about February 7, 2012 and transferred the applicable cases.

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 10 day of January, 2014.



BENJAMIN M. WATSON

¹ Separately from the New Jersey litigation, there were also approximately 18 state court cases filed in other states between 2009 and 2012.